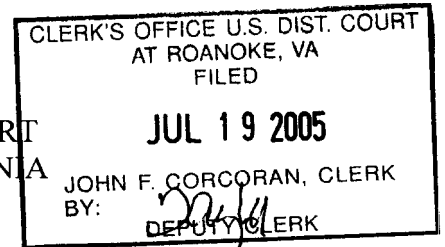


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION



UNITED STATES OF AMERICA)	Case No.: 7:04CR00126
)	
v.)	<u>ORDER</u>
)	By: Hon. Glen E. Conrad
GERMAINE ANTHONY QUARLES)	United States District Judge

The defendant was charged in a multi-count indictment on October 7, 2004. On March 22, 2005, the defendant pled guilty pursuant to a plea agreement to one count of conspiring to distribute cocaine base (count 1), in violation of 21 U.S.C. § 846, and two counts of possessing a firearm in furtherance of a drug trafficking crime (counts 7 and 9), in violation of 18 U.S.C. § 924(c). Prior to the defendant's sentencing hearing on July 18, 2005, the court identified a typographical error in the indictment. Counts 7 and 9 both allege that on or about April 21, 2004, the defendant possessed a firearm in furtherance of a drug trafficking crime. The court notes that count 7 should have alleged that on or about April 19, 2004, the defendant possessed a firearm in furtherance of a drug trafficking crime. Count 7 specifically states that the defendant possessed a firearm in furtherance of the drug trafficking crime set forth in count 6 of the indictment. Count 6 alleges that on April 19, 2004, the defendant knowingly possessed with the intent to distribute a measurable quantity of a mixture or substance containing cocaine base.

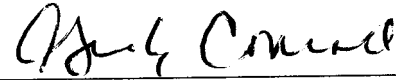
Upon being advised of the error in the indictment regarding the date specified in count 7, the defendant objected to the validity of the indictment. The court agreed to postpone sentencing pending a ruling on this objection. Having considered the defendant's objection, the court finds that the allegations in the indictment fairly apprised the defendant of the crimes with which he was charged. Moreover, the defendant's guilty plea resulted in a waiver of any non-

jurisdictional defects in the indictment. See Tollett v. Henderson, 411 U.S. 258, 267 (1973).

Accordingly, the defendant's objection is overruled, and the court will proceed with sentencing on July 20, 2005.

The Clerk is directed to send a certified copy of this Order to all counsel of record.

ENTER: This 18th day of July, 2005.



United States District Judge